

**CITY OF NEWBERG CITY COUNCIL MINUTES**  
**JULY 5, 2011**  
**7:00 P.M. MEETING**  
**PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

A work session was held prior to the meeting. A presentation was given from the legal department on the initiative petition. No action was taken and no decisions were made.

**I. CALL MEETING TO ORDER**

Mayor Bob Andrews called the meeting to order at 7:04 PM.

**II. ROLL CALL**

**Members**

Present:	Mayor Bob Andrews	Denise Bacon	Ryan Howard	Stephen McKinney
	Bart Riersen	Marc Shelton	Wade Witherspoon	

**Staff**

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Annette de Paz, City Surveyor	Dain Eichel, Acting Public Works Director
	Barton Brierley, Planning and Building Director	Jennifer Nelson, Minutes Recorder

**Others**

Present: Thomas Barnes, Linda Ocheltree, George Duvendack, Leonard A. Rydell, Ed Bartholmey, Jerry Dale, and Gary Norman

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was performed.

**IV. SPECIAL PRESENTATION**

Consider a motion approving a proclamation declaring July 28-31, 2011, as Old Fashioned Festival Week.

Mayor Andrews read the proclamation and presented it to Russ Thomas, chair of Old Fashioned Festival (OFF) committee and the Old Fashioned Festival Court.

**V. CITY MANAGER'S REPORT**

Mr. Daniel Danicic, City Manager, reported July would be a busy month with the Old Fashioned Festival, the Special Olympics, and Tunes on Tuesday starting. He gave an update on the microphone issues stating new ones have been ordered and are expected tomorrow and should be set up for the next Council meeting. He announced the new prescription drug drop off box has been installed and is officially in place so people do not have to wait for the annual events to dispose of their unused drugs. George Fox University (GFU) is advertising for a football coach, so the program is moving forward to build a team by 2013/14. The Chamber of Commerce plans for the new offices to be open this Thursday, July 7, 2011, which will also be the new location for the Visitors' Center with more visibility and accessibility. He also reminded the Council he will be attending a city managers' conference in Bend next week; he will be accessible by phone and email, but otherwise the city attorney will be in charge in his absence.

## VI. PUBLIC COMMENTS

Mr. Thomas Barnes requested Council to consider a proposal he developed to help raise funds to purchase uniforms for the Newberg-Dundee Police Honor Guard to wear at the many events they attend around town. He spoke their professionalism and hard work and wished to coordinate with the City to endorse their efforts and show the people of Newberg and Dundee the level of service their police department is providing. He submitted the written proposal to be included in the record and considered by the Council for approval (see official meeting packet for full report).

**MOTION: Shelton/Rierson** directing staff to review the proposal to fund a uniform event for the Newberg-Dundee Police Honor Guard as requested by Thomas Barnes. (7 Yes/0 No) Motion carried.

Ms. Linda Ocheltree said she is a Newberg resident who works for the City as a circulation clerk at the Newberg Public Library. She spoke of the number of hours cut from the Library in the last two years even though the statistics of people checking items out at the Library and using its services have increased to their highest levels just this past March. With these kinds of cuts being made around the City and at the Library especially, she was upset by the recent water report brochure that went out from the City. When she looks at the brochure, a beautiful color booklet; she mentioned this report used to go out on standard letter sized sheet of paper and she can only see the money spent on this perhaps could have funded at least a ten hour position at the Library. She felt this was an unconscionable act when so many people are being let go from their jobs and she wanted it to be duly noted on the record the Library needs help and it does not need any more cuts.

Councilor Marc Shelton asked staff how long the water report has been published in this form and what the cost is. Mr. Danicic replied at least the last three to four years, but he did not know the cost on this.

Councilor Wade Witherspoon asked what fund this comes out of. Mr. Danicic replied it comes from the education fund from the water fund and the City is required by State law to produce a water report each year. He said it used to be on a sheet of eight and a half by eleven white paper but it was very tiny and hard to read; few paid any attention to it and they moved to this format to engage the public to read it. It is always a challenge to spend money on a mandated activity, but it is an important tool to inform and educate the public.

Councilor Shelton clarified this was outside of the general fund, which Mr. Danicic verified.

Councilor Stephen McKinney said one of the Council's goals is to excel in communications with the public and clearly this is one of the better things being produced. He sympathized with Ms. Ocheltree's concern, but said it does not negate our responsibility to produce this report. He said he heard her concern and felt this is also a reminder for the Council to ensure we are communicating in a better way to the public than we have in previous years.

Mayor Andrews said Ms. Ocheltree's concerns were noted and the Council feels her concern. He thanked her for coming forward and her point is not unheeded, but they cannot reverse the matter at this time and because of nature of funds we do have to consider this in the future.

Councilor McKinney thanked Ms. Ocheltree for her service to the Public Library.

Councilor Shelton asked about the increases in circulation and if that included the number of people getting online. Ms. Ocheltree replied the reference department would be better able to answer that question, but there are all sorts of people coming in because of the economy and the Library provides a wonderful service for the community.

Mr. George Duvendack, Distribution Manager for Waste Management, thanked Newberg for their part of the County wide discussions concerning the landfill expansion and offered some background and updates on the project. The proposal was approved through the County but when it went to the Land Use Board of Appeals (LUBA) they were informed they used the wrong process and needed to implement a different path to change the County code to allow the expansion without impacting broader established areas; he briefly explained the new plan to them. The County Commissioners will consider this change on July 21, 2011, and he invited the Council to attend the meeting. An item was distributed for the record (please see official meeting packet for full report).

Councilor Ryan Howard asked for a little more explanation of the gas power program which Mr. Duvendack provided.

Councilor McKinney asked how many homes are being provided with power from this program. Mr. Duvendack replied there are about 2,500 homes being provided with power from this program in McMinnville.

## **VII. CONSENT CALENDAR**

1. Consider a motion approving **Resolution No. 2011-2957** authorizing the city manager to approve a lease-purchase of two replacement backhoes.
2. Consider a motion approving a sound permit for Chehalem Valley Chamber of Commerce for Tunes on Tuesday held during the months of July and August.

**MOTION: Rierson/Bacon** approving the Consent Calendar including **Resolution No. 2011-2957** and a sound permit for Chehalem Valley Chamber of Commerce for Tunes on Tuesday as amended. (7 Yes/0 No) Motion carried.

## **VIII. PUBLIC HEARINGS**

1. Consider a motion approving **Ordinance No. 2011-2737** amending the Newberg Municipal Code pertaining to technical specifications and signature requirements for partition and subdivision plats.

TIME – 7:30 PM

Mayor Andrews introduced the hearing and called for any conflicts of interest or abstentions; none appeared.

Ms. Annette de Paz, City Surveyor, presented the staff report aided by a PowerPoint slideshow (see official meeting packet for full report).

Mayor Andrews asked about the current practices regarding Type I and Type II processing with staff explained.

Councilor Shelton asked if the reason this is being suggested is because it is more of a County function rather than a City function. Staff replied there are requirements in the City code and those provisions have been stricken because it is the job of the County surveyor for archiving plats; it does not affect the needs of City.

Councilor Shelton asked about the term “plat map” not existing in any other documents and if it is not to be used. Staff said the partition plat includes a final map but when in discussions for land use “partition plat” has a specific definition and it is an error to refer to this as a partition map.

Councilor Witherspoon asked who put in the work to create these proposed changes and how many experts has this been reviewed by. Ms. de Paz replied she did the work and it was reviewed by the public works director, the city manager and the planning commission.

Mayor Andrews recessed briefly to allow a citizen wishing to speak on the matter to fill out a public comment form and then opened the public testimony.

Mr. Leonard A. Rydell submitted a letter to the Council and the Mayor asked if the Council wished to accept the item into the record. Mayor Andrews recessed briefly so Council could review the letter at 8:02 PM for five minutes.

**MOTION: Shelton/Rierson** to accept the written document based on the fact he will be providing additional verbal testimony this evening. (7 Yes/0 No) Motion carried.

Mr. Rydell said this ordinance is just a housekeeping matter and is well written, but there are a few major things not in the public's interest. He offered his recommendations regarding the description of all permanent reference monuments, including two ties to the Oregon State Plane coordinate system as defined by Oregon Revised Statutes (ORS) and the description and location of all permanent reference monuments in section J and A.4 (please see official meeting packet for full report).

Councilor Witherspoon asked Mr. Rydell about his professional expertise. Mr. Rydell said he has been an independent consulting civil engineering and it is part of his job to attend professional land surveyors' meetings. Councilor Witherspoon asked about the three different sources noted in his written testimony and asked if the other entities who reviewed this document, such as the public works director, the city manager, and the planning commission, also have access to those sources during the approval process. He did not provide this testimony to the planning commission.

Mayor Andrews asked when Senate Bill 877 went into effect and asked for clarification of the code sections he was referring to in his recommendation for section E. Mr. Rydell said the bill took effect on June 2, 2011, and he provided the Mayor with the section titles for each item in his recommendations.

Councilor Shelton questioned the city attorney about section A.4 in the code surveyor position and asked what would happen if there was not anyone filling the position, would they take action to provide another recommended person to sign off on these. Mr. Terrence Mahr, City Attorney, agreed that is what would probably have to be done, just as the city manager would delegate responsibilities to another position in the absence of an individual.

Mayor Andrews closed the public testimony.

Councilor Bart Rierson stated he would like to hear more on the letter submitted by Mr. Larry Anderson which was included in the first page of the supplemental material. Councilor McKinney stated he was not in possession of this letter and the Mayor offered him a copy. He asked about possible double billing by the County and City surveyors. Ms. de Paz provided a list given to her by the Planning and Building Director of the final plat review activities that are paid for by the fees; staff was uncertain if the fees charged even recover the actual costs. Below is what the final plat fee covers:

1. The review of the subdivision to insure all conditions of approval have been met, including the completion of construction items, review of easements, title reports, CC&Rs, special agreements, and other documents, coordination with other agencies regarding permit conditions, such as ODOT and Yamhill County, and review of any special conditions (demolition, resource or neighbor protections, utility abandonment or relocation, etc.).

2. The review of the subdivision plat itself to insure the plat complies with the approved tentative plan, and that any modifications meet Development Code standards, insure it reflects the conditions of approval, and insure it contains all items required by City codes.
3. Drafting and executing the subdivision compliance agreement
4. Entering the subdivision into City records, issuing addresses for the lots, updating the City GIS maps, updating City databases, such as Permits Plus and lands inventories, to reflect the new lots, storing and retaining the plat and subdivision documents in accordance with State retention schedules, post-recording follow up, such as to insure compliance with the subdivision agreements, installation of bonded improvements, and compliance with street tree and landscaping plans.

Mayor Andrews asked if there is a separate fee for both the preliminary and the final. Staff replied this is correct.

Ms. de Paz continued by discussing the objections to the city surveyor signing on behalf of the City because the city manager or recorder has been doing it; she stated the City is not giving up any oversight on final plats and the signatures for those positions do not get removed. Currently, there is no overview and it is based on my approval as the surveyor that the city recorder signs those plats. This is to function for who has the responsibility to ensure the final plat meets all criteria.

Councilor McKinney asked if this is a standard procedure in other cities or if Newberg handles this differently. Staff did not know the answer to this but said it is not uncommon to have the city surveyor give the final sign off because as a licensed surveyor the license carries a certain level of obligation.

Ms. de Paz addressed concerns from the public testimony regarding archiving and extra copies needing to be provided; she agreed in the age of digital databases it is a good question as to why the city is keeping a third copy but the problem is this is the only way for the City to provide evidence the plats were created and recorded.

Councilor Howard asked staff how the City would need to move to electronic archiving and how it would work. Ms. de Paz said the final third copy after the final recording could be required as a digital copy but there are pieces of information required on the face of the plat as well. Mr. Danicic explained the reason for the City requiring a copy on Mylar film to have in the files when the County has this in their files as the official archivist, just requiring a digital copy would have to be approved by the County first and discussed further with staff.

Councilor McKinney asked how many of these concerns from Mr. Andersen and Mr. Rydell are related to financial savings for them. He also added there is something to be said for having a hardcopy to maintain if something happens to the digital files.

Councilor Howard asked staff to address Mr. Rydell concerns about adding an additional tie to the coordinate system. Ms. de Paz said only one tie is needed unless it is in order to make an existing requirement make sense you could add another at an additional cost regarding the Global Positioning System (GPS), but you would have to traverse out to that point. She spoke of future abilities through the Oregon State system to import those drawings into the Geographic Information System (GIS) without having to manually digitize them, but that technology is not in place. She said the technology is available today if the City could afford to implement it.

Mayor Andrews asked staff for further explanation of the Senate Bill 877. Ms. de Paz said the bill does not change the State Plane Coordinate System by definition but the Oregon Department of Transportation (ODOT) is lobbying to add a new coordinate system and is attempting to add this into the Oregon Administrative Rules

(OAR) which is currently in the ORS. She is aware of moving the location of this but not with changing the definition of the State Plane Coordinate System.

Councilor Shelton said it makes sense to not change this at this point because we are moving ahead of where the technology is. He suggested striking any requirement for any ties or to make the requirement make sense to be used for anything beneficial. He said to be sure to make a note of this item and to bring it into the code then, but for now it should be stricken.

Mr. Danicic requested tabling the item so staff can address all the different concerns at one time since there is no critical time frame for adoption.

**MOTION: Rierson/McKinney to table Ordinance No. 2011-2737** amending the Newberg Municipal Code pertaining to technical specifications and signature requirements for partition and subdivision plats to a date uncertain to give staff time to prepare additional findings. (7 Yes/0 No) Motion carried.

2. Consider a motion tentatively approving an application to vacate a portion of Ninth Street right-of-way and directing staff to prepare an ordinance for future consideration to complete the vacation of said right-of-way.

TIME – 8:42 PM

Mayor Andrews called for any abstentions, biases, conflicts of jurisdiction, or ex-parte contact from the Council; none appeared. Mr. Mahr made the required legal statements in quasi-judicial matters and explained the procedure for testimony.

Mr. Barton Brierley, Planning and Building Director, presented the staff report aided by a PowerPoint slideshow (see official meeting packet for full report).

Councilor McKinney asked if sewer and storm go under this portion of the street to the east. Staff replied yes, sewer does and stormwater turns and ties in along the highway and Frontier has lines in the same vicinity as stormwater but not in the same ditch.

Mayor Andrews spoke of two communications from ODOT and the other material received as supplemental addressing the bypass and asked what the implication of email he just given to Council is. Staff said a question generated as to ODOT's interest in vacating their sliver of the right-of-way along the highway in addition to the rest of the street; their response was they were building the bypass and not completely sure of what their final right-of-way needs will be and they did not wish to vacate it only to come back and purchase it at a later date if needed.

Mayor Andrews asked if there were any other private utilities other than Frontier using this area. Staff said there may be but none responded.

Mayor Andrews opened and closed the public testimony as no citizens appeared to testify. Staff recommended tentatively adopting the vacation and directing staff to return with an official ordinance for approval.

Councilor McKinney asked if the vacated property shall be equally split between the owners to south and north. Staff replied it is not even and it will be reverted to the parties that dedicated it in the first place, which is quite complicated.

Councilor Shelton said part of the surveying is to determine exactly where the lines are and asked if access may be on a little of each. Staff said this is true but will be determined later.

Councilor Howard asked if the right-of-way was obtained and paid for by the City. Staff replied no to both stating the north property was dedicated through deed by the property owners in association with the participation of the south property with a subdivision plat.

Mayor Andrews closed the public testimony. Mr. Mahr made required legal statements about allowing the record to remain open for seven days after it is closed for the applicant to submit additional written material unless that right is waived.

Mr. Ed Bartholmey and Jerry Dale of Newberg Airport Properties and Gary Norman as the property owner of the southern property all agreed to waive the rights to keep the record open an additional seven days for written submittals. Mayor Andrews closed the hearing and the record.

**MOTION: Witherspoon/Shelton** tentatively approving an application to vacate a portion of Ninth Street right-of-way and directing staff to prepare an ordinance for future consideration to complete the vacation of said right-of-way to a date uncertain. (7 Yes/0 No) Motion carried.

## **IX. COUNCIL BUSINESS**

TIME – 9:08 PM

Mr. Mahr asked the Council to make a motion to reconsider the second-hand dealer ordinance that passed at the June 20, 2011, meeting because staff had conflicting numbers and drafts of the ordinance than what was approved by Council.

**MOTION: McKinney/Andrews** to reconsider **Ordinance No. 2011-2735** establishing provisions for second-hand dealers to a date uncertain. (7 Yes/0 No) Motion carried.

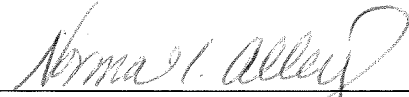
Councilor Shelton discussed concerns for signs posted on vehicles downtown and asked at what point does a vehicle become sign and fall under the sign ordinance. He cited a few examples from downtown and asked if there is any enforcement available. Staff replied if the sign is permanently attached to the vehicle in a nonpublic right-of-way then it is not considered a sign; however, in regards to the pink sign not attached to a forklift in a parking lot they can employ the code enforcement officer to investigate the matter.

Mayor Andrews gave updates on the winners of the “If I Were a Mayor” Contest.

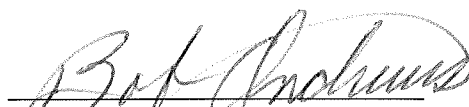
## **X. ADJOURNMENT**

The meeting adjourned at 9:31 PM.

**ADOPTED** by the Newberg City Council this 1<sup>st</sup> day of August, 2011.

  
Norma I. Alley, City Recorder

**ATTEST** by the Mayor this 4<sup>th</sup> day of August, 2011.

  
Bob Andrews, Mayor